UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN FERDMAN, Plaintiff, - against - COLUMBIA PICTURES INDUSTRIES, INC. and SONY PICTURES ENTERTAINMENT INC., Defendants.	Docket No. 17-cv-01816 JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Steven Ferdman ("Ferdman" or "Plaintiff"), by and through his undersigned counsel, as and for his Complaint against Defendants Columbia Pictures Industries, Inc. and Sony Pictures Entertainment Inc. (together "Sony Pictures" or "Defendants") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants' unauthorized reproduction and public display of a copyrighted photograph of actor Tom Holland owned and registered by Ferdman, a New York-based photojournalist. Accordingly, Ferdman seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq*., and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Ferdman is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 201 West 72nd Street, Apt. 18E, New York, NY 10023. Ferdman's photographs have appeared in many publications around the United States.

6. Upon information and belief, Sony Pictures is a corporation duly organized and existing under the laws of the state of Delaware, with a place of business at 10202 West Washington Boulevard, Sony Pictures Plaza, #1137, Culver City, California 90232-3195.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On September 26, 2016, Ferdman photographed the actor Tom Holland in a Spider Man costume (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Ferdman is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA2-022-430.

B. Defendant's Infringing Activities

10. At all times material hereto, Defendants have owned and operated a promotional website at the following URL: https://www.spideyalerts.com (the "Website"). The Website

contains links to the social media websites Instagram.com ("Instagram") and Twitter.com and, specifically, to the Instagram account '@spidermanmovie' (the "Instagram Account") and the Twitter account '@SpiderManMovie' (the "Twitter Account").

11. On September 27, 2016, Defendants republished the Photograph on the Instagram Account from Tom Holland's Instagram page @tomholland2017. The same day, Defendants republished the Photograph on the Twitter Account with the headline "#SpiderManHomecoming has arrived in New York City!". The Twitter Account likewise contained a link to Tom Holland's Instagram page @tomholland2017. Screenshots showing both posts are attached hereto as Exhibit B.

12. Defendants did not license the Photograph from Plaintiff, nor did Defendants have Plaintiff's permission or consent to publish the Photograph on either its Instagram Account or its Twitter Account.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST SONY PICTURES)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Defendants have infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Instagram Account and Twitter Account. Defendants are not, and have never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendants complained of herein constitute infringements of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendants' infringements of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendants' non-cumulative profits pursuant to 17 U.S.C. § 504(b).

18. Alternatively, Plaintiff is entitled to statutory damages up to $150,000 per work infringed for Defendants' willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendants' conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendants' profits, gains or advantages of any kind attributable to Defendants' infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to $150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of their unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and

6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
March 10, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/ Kamanta C. Kettle
Kamanta C. Kettle

Richard P. Liebowitz
Kamanta C. Kettle
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Telephone: (516) 233-1660
RL@LiebowitzLawFirm.com
KK@LiebowitzLawFirm.com

Attorneys for Steven Ferdman